THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 23948 of 1999

10-02-2006

Between:

C.Srirama Sarma, S/o late C.Hanumanth Rao,
R/o H.No.23-22-7, Hanuman Street, Satyanarayanapuram,
Vijayawada.

..... PETITIONER

AND

1 The Revenue Divisional Officer,
Ongole, Prakasam District. And others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

-

WRIT PETITION NO : 23948 of 1999

O R D E R:

This writ petition has been filed assailing the notice dated 19.08.1999 in RCB No.786/94 issued by the 1st respondent-Revenue Divisional Officer, Ongole.

It is stated in the affidavit filed in support of the petition that certain lands of the petitioner have been acquired and an award came to be passed. Dissatisfied with the quantum of amount, he

sought for a reference to the civil Court. The learned Subordinate Judge, Chirala took the reference on file as LAOP No.59/82 and on considering the evidence brought on record, confirmed the market value fixed by the Land Acquisition Officer, by Judgment dated 9-12-1987. Questioning the same, the petitioner filed an appeal before this Court in A.S.No.1237 of 1988, and the said appeal came to be allowed setting aside the order dated 09-12-1987 passed in LAOP No.59 of 1982. Consequently, the market value has been fixed at Rs.9/- per sq. yards and Rs.30/- per tree. The petitioner filed an execution petition for realization of the amount as enhanced by this Court in A.S.No.1237 of 1988. It is the contention of the petitioner that he is entitled to get an amount of Rs. 21,487.20 ps. Whereas, the contention of the respondents is that an amount of Rs.2,96,835/- has already been paid to the petitioner in excess of his entitlement. While so, the Revenue Divisional Officer-1st respondent issued a show cause notice dated 26-08-1996 to the petitioner directing him to return the excess amount of Rs.2,96,835/-. The petitioner is stated to have submitted explanation contending that no excess amount was paid to him and instead an amount of Rs.21,487.20 ps. is still due to him as per the decree granted by this Court in A.S.No. 1237 of 1988. When the 1st respondent did not drop proceedings and proceeded to recover the amount by issuing proceedings dated 23-10-1997, the petitioner filed W.P.No.35257 of 1997 and the said writ petition came to be disposed of directing the petitioner to file fresh explanation treating the proceedings dated 23-10-1997 as fresh show-cause notice. The petitioner submitted explanation on 7-5-1999 and the 1st respondent passed orders afresh on 19-08-1999 directing the petitioner to refund Rs.2,96,835/- Hence the writ petition assailing the said proceedings of the 1st respondent.

A counter affidavit has been filed by the respondents.

It is stated in the counter affidavit that an amount of Rs.2,96,835/- has been paid by the respondents to the petitioner and the excess amount can be recovered from the petitioner by taking recourse to

the proceedings under Revenue Recovery Act.

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition appearing for the respondents.

Undisputedly the execution petition filed by the petitioner for recovery of the amounts in pursuance of the decree passed by this Court has been pending. The contentions of the respective parties are required to be adjudicated upon by the executing Court. Thus the notice impugned for recovering the amount without there being a proper adjudication by the executing Court cannot be sustained. Since the executing proceedings are pending both the parties are at liberty to putforth their calculation memos before the executing court and seek adjudication thereon.

With the above observation, the writ petition is disposed of. No costs.

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10-02-2006

Mjl/*